

COLORADO DISCHARGE PERMIT SYSTEM (CDPS)
FACT SHEET TO MODIFICATION 1
PERMIT NUMBER CO0026611
CITY OF AURORA SAND CREEK WATER REUSE FACILITY

ADAMS COUNTY

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I. TYPE OF PERMIT

A. Permit Type:	Modification 1 – Division Initiated Amendment
B. Discharge To:	Surface Water

II. FACILITY INFORMATION

A. SIC Code:	4952 Sewerage Systems
B. Facility Classification:	Class A per Section 100.6.2 of the <u>Water and Wastewater Facility Operator Certification Requirements</u>
C. Facility Location:	Latitude: 39.760806° N, Longitude: 104.854202°W
D. Permitted Features:	001A, following disinfection and prior to mixing with the receiving stream. 39.760540° N, 104.857591° W

III. PURPOSE OF MODIFICATION

The Division public noticed the draft permit from May 18, 2012 to August 17, 2012. During the public notice the permittee commented on selenium, cyanide, BOD and flow capacity, and nonylphenol amongst other parameters. The Division responded to the comments and made some changes to the permit. The Division issued the permit on September 30, 2012.

In a letter dated October 19, 2012, the City of Aurora objected to the permit and requested an adjudicatory hearing and administrative stay for selenium, cyanide, BOD and flow capacity, and nonylphenol. The City of Aurora stated the following reasons for their objection to the permit requirements for above mentioned parameters:

1. Selenium: Temporary modification: recognition and implementation of temporary modification extensions. Inability to meet the potentially dissolved selenium limitations using the new PQL. And, adaptation of a ‘suggested’ language in the permit to automatically incorporate future temporary modifications into the permit following the Commission’s action citing the issues relating to permit modification came up in the renewal process.
2. Cyanide: ‘The PQL for free cyanide is 10 ug/l so the 5.4 ug/l limit can neither be measure nor attained. No analytical method or lab (including the State lab) can measure cyanide with the necessary levels of accuracy and assurance to 5.4 ug/l. While cyanide can only be measured to 10 ug/l, there is no evidence, and will be no evidence, that reasonable potential exists for the wastewaters to exceed the cyanide limit of 5.4 ug/l. Aurora hereby incorporates by reference, its arguments set forth regarding PQLs and reasonable potential as in Section 3 above; as the same applies to cyanide calculations. Cyanide is not typically present in municipal wastewater. Cyanide could only exist if certain industrial operations used cyanide – no operations in Aurora use cyanide and, if they did, Aurora’s pretreatment requirements would address the cyanide so it would not be in discharges. Setting a cyanide limit of 5.4 ug/l was arbitrary and capricious because there is no evidence that the Sand Creek WRF has a reasonable potential to cause exceedences of the limit.’

3. Nonylphenol: ‘Because of data unreliability and lack of federal standards for nonylphenol, nonylphenol data should not be used to set future permit limits. Any data collected should not be used to make future decisions and permit requirements should not be administered until an appropriate and reliable method is approved. It is an expensive undertaking to monitor and test nonylphenol, and even more costly when you consider that it will not result in meaningful or useful data. Nonylphenol monitoring should be removed from the Final Permit.’”
4. BOD and Hydraulic Capacity: Permittee has indicated that during the term of this Permit, it will amend its site approval to re-rate the facility for BOD and hydraulic capacity. Upon filing a copy with the Permits Section of the site approval that re-rates the Sand Creek WRF capacities to increase the BOD up to 14,387 lbs/day; this limit in the permit shall automatically be amended to reflect these increased.’”

The Division granted the request for a stay for the nonylphenol, selenium and cyanide terms and conditions (of CDPS Permit No. CO0026611 issued on September 30, 2012 and effective on November 1, 2012, stating “The permittee has shown good cause for a stay.

Therefore, this modification is being completed to address the issues raised in the request for appeal and to revise the permit in regards to contested terms and conditions of the permit. Based on a meeting and additional dialogue with City of Aurora representatives on this matter, the Division expects that this modification will resolve the issues raised in the request for an appeal and eliminate the need to proceed with an adjudicatory hearing. As such the Division expects to receive a formal withdrawal of the request for an adjudicatory hearing which will be coordinated with the timing of issuance of this draft modification action.

IV. CHANGES TO PERMIT

1. Selenium: The Division is not able to incorporate any language to allow for automatic incorporation of a standard change into a permit. This is due to several reasons, but primarily because the Water Quality Control Commission must act on any change to a standard, including an extension of a temporary modification. As such, a change may or may not be approved. Additionally, the compliance database (EPA’s ICIS database) must have definitive dates of when a limitation starts or ends, and therefore the database itself needs to be changed to coincide with a change in a permit term or condition. The City of Aurora’s concern about the modification process is a valid concern as the Division did previously miss a previous request for amendment for this facility. However, the Division’s process of handling permit modifications is immensely improved. The new process requires a permit modification form be submitted, which results in such a request being treated in the same manner as a permit renewal application. Previously, requests for modifications came in many forms and were sometimes included in other correspondence where the request was not recognized.

As for the recognition of the temporary modification in setting permits limits, the Division believes that the temporary modification is recognized in this permit, however, an error was made in the compliance schedule. Since the temporary modification is based on an uncertainty, a compliance schedule for meeting the underlying standard should not begin until the expiration of the temporary modification. Therefore, the Division as altered the dates of the items in the compliance schedule to coincide with the current expiration of the temporary modification.

One other concern about selenium is the inability of meeting the underlying potentially dissolved selenium limitation using a new PQL in the permit. It should be noted that the new PQL is not a new permit limitation and it is a result of the development of analytical capacities. Note that a PQL must show compliance with the permit limit, and therefore the PQL of 1 as listed in the permit is not necessarily the PQL that must be used. Additionally, the permittee may request a site specific PQL and follow the necessary steps in determining such. Other options that may be pursued by the permittee include a site specific standard or a discharger specific variance (when available).

2. Cyanide: The cyanide limitation was kept in the permit based on the pervious permit limitation and the data available to the Division with a PQL of 30 ug/l. It should be noted there that the all the results were non-detect. Since the PQL was 30 ug/l and the permit PQL requirement is now 10 ug/l. The Division made an RP determination to keep the limit in the permit, and collect data at the lower PQL for a future RP analysis. In general when the PQL used is larger than that in the permit the Division typically requires continued monitoring. However, in this case, the Division did continue to apply the previous permit limit. The facility has submitted additional cyanide data based on a PQL of 10 ug/l. The results at the lower PQL were also non-detect and therefore, at this time, the Division has made a qualitative no RP determination, and this parameter has been removed from the permit.

3. Nonylphenol: The City of Aurora asked for removal of this parameter from the permit stating the accuracy and reliability of the EPA accepted ASTM Method 7065, as well as the cost of analysis. However, this is an EPA approved method under 40 CFR Part 136 which underwent noticing and final adoption in accordance with EPA requirements, and therefore the reliability and accuracy of the method has been addressed. Regulatory requirements state that a 40 CFR Part 136 method must be used unless an alternate method has been approved by EPA. Note that all analytical methods accepted by EPA have a range of accuracy. The Division will keep the requirement in permit, and since there is an approved 40 CFR method, the delayed effective date of monitoring (which was based on giving the permittee time to develop a site specific PQL) has been removed. The paragraph regarding the development of a site specific PQL for nonylphenol was removed from Part I.D.5 of the permit as it references “until such time as there is an EPA approved method” and the PQL associated with the non-approved method has been removed from the PQL table.
4. BOD and Hydraulic Capacity: The Division denied the stay request for this item in the response to appeal request. The Division has confirmed that the appropriate steps to increase the organic loading are through the site approval process. Additionally, questions raised on the expansion planning and construction requirements (at 80% and 95% of the organic loading) included in the permit have been resolved. Based on Regulation 61.8(7)(a) and (b), the Division does not have to include requirements for ‘initiation of engineering and financial planning for expansion’ at the eighty percent treatment capacity or for ‘either commence such construction or cease issuance of building permits within such municipality until such construction is commenced’ at the ninety-five percent treatment capacity. As this facility has the ability to send its wastewater to another POTW, it can control the amount of wastewater treated and expansion is not necessary at the trigger levels mentioned above. The Division has removed the section relating to expansion of the facility.
5. Other minor changes: The Division has altered the language in Part I.B.3, deleting the requirement to run, at a minimum, one complete line of treatment process regardless if needed to meet the effluent limits, and the word guidelines from the last sentence on disposing of sludge in accordance with state and federal “guidelines” and regulations as the word guidelines in not included in the regulatory citation.

Kenan Diker
December 7, 2012

V. PUBLIC NOTICE COMMENTS

The public notice period was from December 13, 2012 to January 14, 2013. No comments were received during the public notice.

Kenan Diker
January 15, 2013